

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,  
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING  
ON THURSDAY, APRIL 19, 2007.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:31 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

**MEMBERS PRESENT:** Council Members Mr. Coffey, Mr. Schmidt, Mr. Zurschmiede, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Messer, Mr. Blevins, and President Larry Kochert.

**OTHERS:** Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

**ALSO:** John Rosenbarger, Planning and Zoning, Shane Gibson, City Attorney, Anthony B. Toran, Director of City Operations and Mayor James E. Garner, Sr.

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Mrs. Crump moved to approve the regular minutes and the public hearing minutes from April 2, 2007 as amended, Mr. Price second, all voted in favor except Blevins who abstained.**

**Mr. Schmidt moved to amend the agenda to move the CF-1s forward, Mr. Messer second, all voted in favor**

**APPROVAL OF CF-1 FORMS:**

Kessans & Kessans, Compliance with Statement  
of Benefits, Referencing R-86-53

**Mr. Coffey moved to approve, Mrs. Crump second, all voted in favor.**

**COMMUNICATIONS – PUBLIC:**

**Lerald Gray**, 2702 Winchester Dr., addressed the board regarding a street off of State behind his apartment building at 1120 State Street. He stated that this road has been seriously neglected and it is the only way his tenants can get into the parking lot. He stated that he is there to request that this street be considered for repaving.

**Todd Solomon, New Albany Sewer Board**, addressed the council regarding the need for a sewer manager. He stated that he had been spending close to 8 to 6 hours working on New Albany sewers business and it is taking time away from his family and his own job. He announced that he is resigning as of July 24. He discussed the issues that he has seen that warrants the hiring of a utility manager. He went over the list of responsibilities of the utility manager.

**Mr. Kochert** stated that this is a very important issue that should have been addressed a long time ago and he regrets that Mr. Solomon is resigning because he feels that he is the most knowledgeable person on the board.

**COMMUNICATIONS – CITY OFFICIALS:**

**Mr. Koehler** presented the parks 2006 Annual Report to the board and reported that the park ended up in the black. He stated that the Southern Indiana Sports Complex is self supporting and the enrollment in the programs has grown. He reported that they repainted the pool last year and stated that Camille Wright is coming to the end of its life span. They have found some leaks that they have caulked and he believes that they have stopped the leaks temporarily, but that the material that the pool is made of erodes from the outside in and they have found some weak spots in the pool. He reported that they will be having a meeting on the pool and he invited Mr. Coffey to attend as the council's

representative. He reported that they also have a mud slide at Anderson Park and they are hiring a soil engineer to investigate this situation.

**Mr. Coffey** reported that during the softball tournaments along Cherry Street people camp out there and the neighbors are having problems with broken windows and beer bottles.

**Mr. Koehler** stated that he would look into this problem.

**Tim Deatruck, President Storm Water Board** reported they have received an up-dated monthly report and he asked Chad McCormick to discuss the report.

**Mr. McCormick** discussed the Quarterly Stormwater Report in detail. Said report is on file in the City Clerk's office. He stated that they have found several illicit discharges through the public forums.

**Mr. Brian Dixon** reported on the maintenance of the catch basins and the storm water lines. He stated that this is a preventative maintenance type program that will be beneficial in the long run. He explained that they will have a list of projects for the council once all the bids have been relieved and they will move forward from the top down.

#### **COMMUNICATIONS – MAYOR:**

#### **APPOINTMENTS:**

#### **INTRODUCTION OF ORDINANCES AND RESOLUTIONS:**

#### **READING**

R-07-18	Resolution to Use \$500,000 From the EDIT Fund for The Repair, Paving, Milling and Striping of Streets in New Albany	Gahan
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**Mr. Gahan moved for the reading of R-07-18, Mr. Coffey second, all voted in favor.**

**Mr. Gahan** reiterated his points from the last meeting as why this needs to be passed. He explained that not only will it improve the look of the city but that it would also raise property taxes and attract businesses and new residents to the city. He said that what they have in the fund now will only mill and pave about 5 miles of street and they have 150 miles in the city.

**Mr. Blevins** asked if the \$500,000 was passed would it have any effect on the resolution for the street department.

**Mrs. Garry** said that it would not.

**Mr. Blevins** stated that the condition of the roads is tearing up the trucks of the Street Department. He stated that he has seen places where the bricks are showing because the asphalt is gone. He stated that they need to lay politics aside and do what is right for the City.

**Mr. Coffey** reported that he visited a gentleman the other day that had hit a pot hole at the entrance of his driveway that broke his tie rod and he doesn't have the money to have it fixed.

**Mr. Zurschmiede** asked Mayor Garner if they had the list of priorities.

**Mayor Garner** stated that they did.

**Mr. Zurschmiede** asked Mr. Simmons if he knew what number one on the list was.

**Mayor Garner** said Market Street and Bono were two of the top priorities.

**Mr. Zurschmiede** stated that he has no problem voting for the money but he wanted to make sure that it was based on priorities and safety for the city.

**Mayor Garner** stated that he agreed with him.

**Mr. Messer** stated that he thinks it is a shame that the citizens had to wait this long to get this done.

R-07-19	Resolution to Use \$100,000 From the Riverboat Fund For the Purchase of a Truck the Street Department and The Construction of a Steel Structure to Store the Salt Bins off the Street Department Trucks	Blevins
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**Mr. Blevins moved for the reading of R-07-19, Mr. Schmidt second, all voted in favor.**

**Mr. Gahan** asked for a description of the truck.

**Mr. Blevins** stated it is a grapple truck. It has an arm that picks up the debris and they use it to pick up heavy loads.

R-07-20	Resolution to Fund the Purchase of Fire Apparatus Truck	Price
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**Mr. Price moved for the reading of R-07-20, Mr. Coffey second, all voted in favor.**

**Mr. Price** asked Chief Toran or Kay Garry to explain what this is for.

**Mrs. Garry** explained that there is money in the fire run non-reverting fund and she suggests that they make a down payment of \$200,000 out of that fund and have a lease to own option with payments of \$100,000 a year that can be paid out of that fund, but if for some reason the money is no longer coming into the fire run fund they can have this money set aside to make the payments.

**Mr. Kochert** asked if this is the ambulance run fund.

**Mrs. Garry** stated that this is the fire run fund where they put the money that they receive from Caesars and other locations that pay the fire department for protection.

R-06-31	Resolution to use Proceeds from E.D.I.T. Settlement To be received in 2006 for Motor Vehicle Highway Fund's Expenses in 2007 Budget Year.	Blevins
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**Mr. Blevins moved for the reading of R-06-31, Mr. Schmidt second, all voted in favor.**

**Mrs. Garry** explained that they asked for this money last year when they knew they were going to get money in from the jail bond. She stated that the Street department has been in the red since 2002 and this money would stay in the EDIT fund and anything purchased for the Street Department would come out of that fund and help them come out of the deficit.

A-07-08	An Ordinance Amending Ordinance A-06-38 Setting The Salaries for the Year 2007 for Non-Bargaining Unit Employees	Zurschmiede 1
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**Mr. Zurschmiede moved for the first reading of A-07-08, Mr. Schmidt second, all voted in favor.**

**Mr. Coffey** asked if this person would be an engineer.

**Mr. Zurschmiede** said yes.

**Mr. Price** stated that he agrees that this is important but he believes that some of the other expenses need to be cut down like EMC and Sam Lahanis.

**Mr. Zurschmiede** said that Sam's contract is almost up and they waived their fee in April because they didn't do any work.

**Mr. Messer** stated that this is the only department that they have that doesn't have a department head.

**Mr. Zurschmiede** stated that now that Mr. Solomon is leaving we need this person more than ever and he agrees with Mr. Kochert that Mr. Solomon brings a certain expertise to the board.

**Mr. Kochert** asked if Mr. Solomon would serve to help find a qualified individual for this position.

**Mr. Gahan** asked why they didn't think about hiring an individual like this before they spent \$50 million on sewer projects. He said he isn't questioning the need he just wanted to know why they are just now talking about it

**Mr. Kochert** said they have been talking about this for quite some time and that Mr. Gahan obviously hasn't been listening.

**Mr. Zurschmiede** stated that he appreciates Mr. Gahan's point of view but they do need it now and now is the time to act on it and move forward.

A-07-11          Additional Appropriation          Gahan 1

**Mr. Gahan moved for the first reading of A-07-11, Mr. Coffey second, all voted in favor**

G-07-06          An Ordinance to Amend Ordinance G-04-27 Code          Schmidt 1  
34.01 Mileage and Travel Allowance Reimbursement

**Mr. Schmidt moved for the first reading of A-07-06, Mr. Crump second, all voted in favor**

**Mrs. Crump** asked how many people this effects.

**Mrs. Garry** stated that on a daily basis there are two people, the building inspector and the weights and measures inspector and occasionally you have people like her that may go to a seminar in Indianapolis.

**Mr. Price** asked if they could use one of the old police cars for the inspectors.

**Mrs. Garry** said that they would have to look into that but they haven't purchased new cars yet.

A-07-10          Additional Appropriation          Schmidt 2&3

**Mr. Coffey** asked if they are advertising for bids to demolish houses because he recalled a similar situation in the past that saved the city a lot of money when they advertised.

**Mr. Schmidt moved for the second and third reading of A-07-10, Mr. Messer second, all voted in favor Bill A-07-10 became Ordinance A-07-16.**

G-07-05          An Ordinance to Repeal Chapter 32, Section 32.80          Coffey 3  
Through Section 32.88, New Albany Fire Department  
Candidate Selection Process Act

**Mr. Coffey** moved for the third reading of A-07-05, **Mr. Crump** second,

**Mr. Messer** gave an up-date on the Fire Hiring Committee meeting and reported that they discussed putting a merit system into place. He hasn't heard back from the union but they are having another meeting on the 24<sup>th</sup>. He stated that the council isn't giving up any power what so ever by doing away with the ordinance that is on the books.

**Mayor Garner** stated that according to State Statute the Board of Public Works and Safety has complete control over public safety and hiring processes and he explained that they passed a resolution stating that they are going to take over the hiring process and then they passed a hiring resolution after that. He stated that the original ordinance is very vague and that the board has come up with a much more detailed process.

**Mrs. Crump** stated that she didn't think there was one on the books prior to the current one.

**Mayor Garner** stated that the previous one basically just followed state statute.

**Mr. Coffey** said the good thing about that was that if there was ever any dispute over the process the city wouldn't be liable. He said the problem is that under the current ordinance you can fail the agility and come back and take it but you can't fail the written portion and re-take that.

**Mr. Messer** said that he didn't think that was the problem but that it was the percentages that were causing the issue. He stated that there is also the issue of candidates who went through on this ordinance being able to hold the City accountable if they repeal the ordinance.

**Mayor Garner** stated that the Board of Works passed a resolution that stated that the current candidates will still be candidates provided that they pass the written test.

**Mr. Messer** asked if they were still short firemen

**Mayor Garner** said they were but that they were in the process of hiring them right now but it is a lengthy process.

**Mrs. Crump** asked if she understood correctly that the firefighters and the union were okay with what the Board of Works passed.

**Mayor Garner** said he met with a negotiating committee and they said that they thought it looked good.

**Mr. Messer** stated that he met with the same group of people and they seem to support a merit system

**Mrs. Crump** asked Mr. Messer since he met with the same individuals if he felt like they were okay with what the Board of Works passed and if they were then the council needed to respect that.

**Mr. Messer** stated that there are only three people on the negotiating committee that are agreeing to it and he thinks that the council needs to know that the union accepts it before they make a decision.

**Mrs. Crump** stated that she believes that the ordinance that is on the books now is better than no ordinance at all but it is a dead issue if they are saying that they don't have to abide by the ordinance.

**Mr. Messer** said that isn't a fact yet because it hasn't been challenged and has to be established in court.

**Mrs. Crump** stated that was one of her concerns that if you have a ordinance that was voted on by the City Council as to how they will run a certain issue within the City how can they all of a sudden decide that they aren't going to abide by it.

**Mayor Garner** explained that State Statute overrides any local ordinance.

**Mr. Zurschmiede** stated that in his mind the only way the Board of Works resolution will be valid is if they repeal the current one tonight and if not the ordinance they have will stand and if they do repeal it they are setting themselves up for a law suit.

**Mr. Messer** stated that he would recommend keeping the ordinance in place until 2008 and then giving the union to opportunity to decide if they would rather have a merit system.

**Mr. Coffey** stated that he is against the Council Attorney taking the Mayor to court because it will just pit the Council Attorney and the City attorney against one another and cause more problems and the tax payers will be footing the bill. He asked Mr. Ulrich if they can be sued over what they have on the books now.

**Mr. Ulrich** stated that it is subject to challenge.

**Mr. Zurschmiede** stated that he is only been on the council for several months but he has seen everyone involved including the council, the Mayor, the fire Chief and he thinks that is a step in the right direction and they should continue on with that.

**Mr. Messer** stated that he still thinks they should wait until 2008 but if they want to give the power back to the Mayor then they should repeal the ordinance tonight.

**Mayor Garner** said that they aren't giving the power back to him but to the Board of Works where the power originated to begin with.

**Bill G-07-05 did not pass with everyone voting nay except for Mr. Coffey who voted aye.**

**MISCELLANEOUS COMMUNICATIONS:** (public comments on non-agenda items)

**Mrs. Bolovshak**, addressed the council regarding the quite zone along Main Street and stated that the rail road crossing equipment will be going in next week. She stated that after the train derailment in Kentucky she met with the Safety Board from Norfolk Railroad and they came down and met with her and Mr. Price to look over the 15<sup>th</sup> Street line.

**Mr. Kevin Hammersmith** stated that two years ago the closing of the crossing has caused a hardship for Duke Energy where they cannot get to their substation. He stated that Mr. Engle has been letting them use his property to get in and out. He explained that they have tried to work with the Mayor's office and Mr. Rosenbarger for over two years and they still do not have a resolution and if Mr. Engle decided to put up a fence or anything like that they will have no way at all to get to their substation.

**Mr. Messer** asked if there was enough property between the railroad and the flood wall to make an access route.

**Mr. Hammersmith** said that property belongs to the railroad.

**Mr. Messer** asked Mrs. Bolovshak if the railroad would give them access to it.

**Mr. Hammersmith** said that he and Mr. Rosenbarger spoke with the railroad and they are not easy to work with.

**Ms. Bolovshak** stated that they also were given access through Mr. Sharlow's property.

**Mr. Hammersmith** stated that they could not get to the gate of their substation from Mr. Sharlow's property.

**Ms. Bolovshak** asked if they couldn't move the gate.

**Mr. Messer** stated that he would be happy to meet down there with Mr. Hammersmith and Mrs. Bolovshak and see what they can work out.

**Mr. Hammersmith** stated that all he is asking is that the city installs a road that runs between 9<sup>th</sup> and 10<sup>th</sup> street so that they can access their substation with their equipment.

**Mr. Coffey** stated that he does not see where this is the City's responsibility and he asked if Mr. Rosenbarger had any input on this.

**Mr. Rosenbarger** explained that this property was actually vacated 40 years ago and that they council just re-vacated a vacated piece of property. He stated that the railroad informed him that the crossing at 9<sup>th</sup> Street was never an approved crossing and should have never been opened to the public. They have talked with Mr. Engle to request an easement but he is asking an outlandish amount for the property and they are currently at a stalemate. He informed them that the city and Duke Energy both have the right of imminent domain and if Mr. Engle does not come down on his price they could use it to obtain the easement.

**Mr. Zurschmiede** said they are going to be at more than a stalemate if Mr. Engle decides not to let Duke Energy through his property.

**Mr. Hammersmith** said he just wants the council to look at this and see what can be done.

**Mr. Messer** said he would like the opportunity to go and check out the situation and report back to the council as well as Mr. Hammersmith.

**Mr. Price** asked that R-07-13 be pulled from the table.

**Mr. Zurschmiede** stated that he is chairmen of the smoking ban committee and he has been holding up on putting this on the agenda because he understood it was being handled at the state level but he is going to get the committee together soon on that because the state doesn't seem to want to take action.

**Coffey** asked that G-06-19 be pulled from the table.

**ADJOURN:**

There being no further business before the council, the meeting adjourned at 9:32 p.m.

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Larry Kochert, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Marcey Wisman, City Clerk